

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
MELANIE M. COLON,

Plaintiff,

VERIFIED ANSWER

-against-

BERNARDIN GUTIERR BERNABE,  
SALEM TRUCK LEASING, INC. and  
PIGTAINER, INC.

Defendants.

-----X

Defendants, BERNARDIN GUTIERR BERNABE, SALEM TRUCK LEASING,  
INC. and PIGTAINER, INC., by way of Answer to the Complaint, say:

FIRST COUNT

1. These defendants have insufficient knowledge or  
information to admit or deny the allegations contained in Paragraph  
One of the Complaint.

2. These defendants admit the allegations contained in  
Paragraph Two of the Complaint.

3. These defendants admit the allegations contained in  
Paragraph Three of the Complaint.

4. These defendants admit the allegations contained in  
Paragraph Four of the Complaint.

5. These defendants admit the allegations contained in  
Paragraph Five of the Complaint.

6. These defendants deny the allegations contained in  
Paragraph Six of the Complaint.

7. These defendants have insufficient knowledge or

information to admit or deny the allegations contained in Paragraph

Seven of the Complaint.

8. These defendants admit the allegations contained in

Paragraph Eight of the Complaint.

9. These defendants have insufficient knowledge or

information to admit or deny the allegations contained in Paragraph

Nine of the Complaint.

10. These defendants have insufficient knowledge or

information to admit or deny the allegations contained in Paragraph

Ten of the Complaint.

11. These defendants deny the allegations contained in

Paragraph Eleven of the Complaint.

12. These defendants have insufficient knowledge or

information to admit or deny the allegations contained in Paragraph

Twelve of the Complaint.

13. These defendants have insufficient knowledge or

information to admit or deny the allegations contained in Paragraph

Thirteen of the Complaint.

14. These defendants have insufficient knowledge or

information to admit or deny the allegations contained in Paragraph

Fourteen of the Complaint.

15. These defendants have insufficient knowledge or

information to admit or deny the allegations contained in Paragraph

Fifteen of the Complaint.

16. These defendants have insufficient knowledge or

information to admit or deny the allegations contained in Paragraph

Sixteen of the Complaint.

information to admit or deny the allegations contained in Paragraph

25. These defendants have insufficient knowledge or

Twenty-Four of the Complaint.

information to admit or deny the allegations contained in Paragraph

24. These defendants have insufficient knowledge or

Twenty-Three of the Complaint.

information to admit or deny the allegations contained in Paragraph

23. These defendants have insufficient knowledge or

Twenty-Two of the Complaint.

information to admit or deny the allegations contained in Paragraph

22. These defendants have insufficient knowledge or

Twenty-One of the Complaint.

information to admit or deny the allegations contained in Paragraph

21. These defendants have insufficient knowledge or

Twenty of the Complaint.

information to admit or deny the allegations contained in Paragraph

20. These defendants have insufficient knowledge or

Nineteen of the Complaint.

information to admit or deny the allegations contained in Paragraph

19. These defendants have insufficient knowledge or

Eighteen of the Complaint.

information to admit or deny the allegations contained in Paragraph

18. These defendants have insufficient knowledge or

Seventeen of the Complaint.

information to admit or deny the allegations contained in Paragraph

17. These defendants have insufficient knowledge or

Twenty-Five of the Complaint. These defendants have insufficient knowledge or information to admit or deny the allegations contained in Paragraph Twenty-Six of the Complaint.

26. These defendants have insufficient knowledge or information to admit or deny the allegations contained in Paragraph Twenty-Six of the Complaint.

27. These defendants have insufficient knowledge or information to admit or deny the allegations contained in Paragraph Twenty-Seven of the Complaint.

28. These defendants have insufficient knowledge or information to admit or deny the allegations contained in Paragraph Twenty-Eight of the Complaint.

29. These defendants deny the allegations contained in Paragraph Twenty-Nine of the Complaint.

30. These defendants deny the allegations contained in Paragraph Thirty of the Complaint.

31. These defendants deny the allegations contained in Paragraph Thirty-One of the Complaint.

32. These defendants deny the allegations contained in Paragraph Thirty-Two of the Complaint.

33. These defendants deny the allegations contained in Paragraph Thirty-Three of the Complaint.

34. These defendants deny the allegations contained in Paragraph Thirty-Four of the Complaint.

35. These defendants deny the allegations contained in Paragraph Thirty-Five of the Complaint.

36. These defendants have insufficient knowledge or information to admit or deny the allegations contained in Paragraph

Article 14 of the New York Civil Practice Law & Rules. should be limited as provided by the terms and provisions of should it be adjudged otherwise, then these defendants liability while denying any negligence on the part of these defendants,

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

had no control and/or no duty to control. of third persons, entities or conditions over whom these defendants plaintiffs injuries and damages, if any, were caused by acts

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

reasonable care under the existing circumstances. in plaintiffs failure to make proper observations and exercise were caused by her sole, contributory or comparative negligence and The injuries and damages, if any, sustained by the plaintiff

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

AFFIRMATIVE DEFENSES

discovery.

change the answer upon completion of appropriate investigation and and to assert additional defenses and/or supplement, alter or INC. and PIGTAINER, INC., reserve the right to amend this answer Defendants, BERNARDIN GUTIERREZ BERNABE, SALEM TRUCK LEASING, Paragraph Thirty-Eight of the Complaint.

38. These defendants deny the allegations contained in Thirty-Seven of the Complaint. information to admit or deny the allegations contained in Paragraph 37. These defendants have insufficient knowledge or Thirty-Six of the Complaint.

action.

the Complaint along with the costs and disbursements of this  
 BERNABE and SALEM TRUCK LEASING, INC. demand judgment dismissing  
 WHEREFORE, Defendant, PIGTAINER, INC., BERNARDIN GUTIERR  
 economic loss as defined by Insurance Law Section 5102.

Plaintiff has not sustained economic loss greater than basic

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

Insurance Law Section 5102(d).

Plaintiff has not sustained a serious injury as defined by

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

the New York Civil Practice Law & Rules.

be limited as provided by the terms and provisions of Article 16 of  
 should it be adjudged otherwise, then defendants' liability should  
 While denying any negligence on the part of these defendants,

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

not be held liable.

an independent, intervening cause for which these defendants may  
 The damages, if any, sustained by plaintiff were the result of

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Law & Rules.

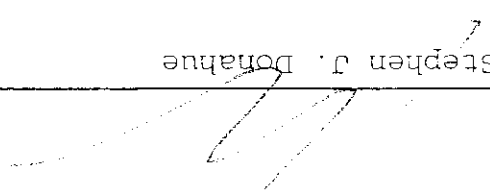
terms and provisions of Article 14A of the New York Civil Practice  
 be limited or plaintiff barred from recovery as provided by the  
 should it be adjudged otherwise, then defendants' liability should  
 While denying any negligence on the part of these defendants,

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Dated: New York, New York  
March 9, 2007

HARDIN, KUNDLA, MCKEON & POLETTO, P.A.  
Attorneys for Defendant, PIGTAINER,  
INC., BERNARDIN GUTIERREZ BERNABE and  
SALEM TRUCK LEASING, INC.  
110 William Street  
New York, New York 10038  
(212) 571-0111

By:

  
\_\_\_\_\_  
Stephen J. Donahue

VERIFICATION

STATE OF NEW YORK )  
 ) ss.:  
 COUNTY OF NEW YORK )

Stephen J. Donahue, an attorney duly admitted to the practice of law in the Courts of the State of New York, says:

I am an attorney with the firm of Hardin, Kundla, McKeon & Poletto, P.A., attorneys for Defendants, BERNARDIN GUTIERR BERNABE and SALEM TRUCK LEASING, INC. in the within action. I have read the foregoing Verified Answer and know the contents thereof; and the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are a review of the files and documents furnished to me by the representatives of said defendant, and/or counsel for plaintiffs. This verification is being made by me because Defendant is not in the County where I maintain my office.



Stephen J. Donahue, Esq.  
 Attorney for Defendants, BERNARDIN GUTIERR BERNABE and  
 SALEM TRUCK LEASING, INC.



NOTICE OF  
SETTLEMENT  
on  
at

that an Order of which the within is a true copy will be presented for settlement to the Hon.  
one of the judges of the within named Court.

that the within is a (certified) true copy of a  
entered in the office of the clerk of the within named Court on

PLEASE TAKE NOTICE

Attorney(s) for

Dated:

Service of a copy of the within

is hereby admitted.

Print Signer's Name Signature  
Stephen J. Donahue

Dated: March 9, 2007

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon  
information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Office Address & Tel. No.:  
110 William Street  
New York, New York 10038  
(212) 571-0111

HARDIN, KUNDLA, MCKEON & POLETTI, P.A.  
Attorneys for Defendants, BIGNARD, INC.,  
BERNARDIN GUTIERREZ, BERNABE and SALEM TRUCK LEASING, INC.

VERIFIED ANSWER

Defendants

-against-  
BERNARDIN GUTIERREZ BERNABE, et. al.,

Plaintiff

MELANIE M. COLON

Year

Index No. 7519/07